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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------------|------------------|
| 10/002,553 | 11/23/2001 | Eugene Jarvis | 011548 | 3797 |
| 29159 | 7590 | 10/19/2004 | | |
| BELL, BOYD & LLOYD LLC P. O. BOX 1135 CHICAGO, IL 60690-1135 | | | EXAMINER NGUYEN, BINH AN DUC | |
| | | | ART UNIT 3713 | PAPER NUMBER |
| DATE MAILED: 10/19/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|--|--|
| Office Action Summary | Application No. 10/002,553 | Applicant(s) JARVIS ET AL.  | |
| | Examiner Binh-An D. Nguyen | Art Unit 3713 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 11, 12 and 15-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/25/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Response to Restriction Requirement filed May 3, 2004 has been received. According to the Response, the invention of Group I and Species S1a (claims 1-10, 13, and 14) have been elected without traverse. Currently, claims 1-48 are pending in the application, wherein claims 11, 12, and 15-48 have been withdrawn due to non-elected inventions. Claims 1-10, 13, and 14 are hereby examined on the merit.

Acknowledgment has been made.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: means for identify game and wager input; and means for processing game payout prior to plotting the payout value.

4. Claims 2-10, 13, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 2-6, 8-10, 13, and 14, the recited term "The game" lacks antecedent basis.

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In claims 2 and 7, the recited term "the player's wager" lacks antecedent basis.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3-5, and 13, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Takemoto et al. (5,702,303).

Takemoto et al. teaches a gambling device having graphing function for charting the game payout value over time comprising: a video gaming machine (1) for playing a game (figs. 1-2)(5:26-40); a graph having first and second axes, wherein the payout value is plotted on a first axis, and time is plotted on the second axis (figs. 8-9)(6:34-67); payout value is changed over time by a random function (12:43-56; 11:45-58); said random function is a random walk (random function of the plotted values resembling a random walk, figs. 2,4,7-9); means to stop the game at any time and collect said payout value at the time the game is stopped (whenever the player desired to stop playing games, 7:59-8:9).

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 2, 6-8, and 14, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Takemoto et al. (5,702,303) as applied to claims 1, 3-5, and 13 above, and further in view of Mindes et al. (5,842,921).

Takemoto et al. teaches all limitations of claims 1, 3-5, and 13. Takemoto et al. does not explicitly teach the limitations of player's wager is the initial payout value when the game is started (claim 2); payout value is reduced by a house commission in order to generate revenue (claim 6); a commission is charged to the player's wager in order to generate revenue (claim 7); payout value is reduced by a negative bias added to the payout value over time, so as to generate revenue as the game is played over time (claim 8); gambling device is a personal computer (claim 14).

Mindes et al., however, teaches a system for wagering comprising: player's wager is the initial payout value when the game is started (fixed profit, 24:36-49); payout value is reduced by a house commission in order to generate revenue (9:45-56); a commission is charged to the player's wager in order to generate revenue (9:57-63); payout value is reduced by a negative bias added to the payout value over time, so as to generate revenue as the game is played over time (20:26-21:10); gambling device is a personal computer (302)(Fig.1).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Takemoto et al.'s gambling device having payout value plot with the system for wagering at fixed handicaps or odds, as taught by Mindes et al., to provide stable betting pool in a wagering system.

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9. Claims 9 and 10, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Takemoto et al. (5,702,303) as applied to claims 1, 3-5, and 13 above, and further in view of Bennett (6,089,977).

Takemoto et al. teaches all limitations of claims 1, 3-5, and 13. Takemoto et al. does not explicitly teach the limitations of an event is triggered when the plotted graph intersects an icon (claim 9); and triggered event is a bonus serving to increase the payout value (claim 10).

Bennett, however, teaches a slot machine game comprising event is triggered when the wild symbol (penguin feature) intersects an icon (Fig.3 and 3:8-4:67); and triggered event is a bonus serving to increase the payout value (5:2-52).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine the gambling system with plotted graph of payout value of Takemoto et al. with a random bonus triggering event, as taught by Bennett, to bring more excitement to game players and enhance user interactive in a wagering game thus attract more players and bring forth profits.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 703-308-2159. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BN


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